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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

TERRANCE ELLISON,

Defendant and Appellant.

D057008

(Super. Ct. No. SCD223802)

APPEAL from a judgment of the Superior Court of San Diego County, Lisa A. Foster, Judge. Affirmed.

A jury found Terrance Ellison guilty of transporting cocaine. (Health & Saf. Code, § 11352, subd. (a).) Ellison then waived his right to a jury trial and admitted allegations he had two prior drug-related convictions (Health & Saf. Code, § 11370.2, subd. (a)) and had served two prior prison terms (Pen. Code, § 667.5, subd. (b)). The court dismissed the drug priors and the prison priors, found that Ellison transported the

cocaine for sale and sentenced him to the four-year middle prison term. Ellison appeals. We affirm.

FACTUAL BACKGROUND

Around 8:45 p.m. on November 5, 2009, police officers conducted a traffic stop in an area known for drug sales. Ellison, the driver, was the stopped car's sole occupant. One of the officers asked Ellison for his driver's license, but Ellison provided a California Identification Card. Ellison seemed agitated. His eyes were wide, he spoke quickly and he moved a lot. He reached for the dashboard and the glove box. The officer asked Ellison to put his hands where they could be seen.

The officer asked Ellison whether he had anything illegal in the car. Ellison said that he had marijuana. The officer asked for permission to search the car. Ellison consented. The officer told Ellison to get out of the car. Ellison opened the door and grabbed items in the car including cell phones and his wallet. He leaned over the car's center console; reached in with an open hand; removed his hand, now in a fist; put his hand between his legs and then put his fingers in his mouth. Ellison closed the console.

Ellison struggled when the officers removed him from the car. He put his hand in his pants, then again put his fingers in his mouth. The officers handcuffed Ellison and searched his car. In the center console they found a sandwich bag of cocaine, a sandwich bag of marijuana and a \$20 bill. A search of Ellison's person yielded more than \$781. The officers did not find any implement that could be used to ingest cocaine.

Ellison had three cell phones, including one that did not work and one that was brand new. One of the phones rang five to 10 times from the time the officers contacted

Ellison until they took him to headquarters, a period of more than an hour. There was a text message on one of the phones saying, "I have some more. Do you want some?" The text response was, "Some of what?"

The parties stipulated that the substance in the car's center console was 6.18 grams of cocaine. An expert testified it was worth from \$475 to \$600 and was possessed for sale, not personal use.

DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel lists, as possible but not arguable issues, whether Ellison's trial counsel was ineffective because counsel failed to file a motion to suppress the evidence obtained from the search of Ellison's car and cell phone; whether the court erred by denying Ellison's motion in limine to preclude trial testimony relating to the purported marijuana found in the car and whether the court erred by finding that Ellison transported cocaine for sale rather than for personal use, thus precluding Proposition 36 mandatory drug treatment in lieu of prison.

We granted Ellison permission to file a brief on his own behalf. He has not done so. A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738, including the possible issues listed pursuant to *Anders v. California, supra*, 386 U.S. 738, has disclosed no reasonably arguable appellate issues. Ellison has been competently represented by counsel on this appeal.

DISPOSITION

The judgment is affirmed.

McINTYRE, J.

WE CONCUR:

HUFFMAN, Acting P. J.

NARES, J.